

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,
AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 20072 OF 2005

Date: 15.09.2005

BETWEEN:

1. Irfan Gani Siddiqui and another

.... PETITIONERS

Vs.

The Mandal Revenue Officer,
Moinabad Mandal, Ranga Reddy District.

.... RESPONDENT

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO. 20072 OF 2005

ORDER:

The petitioners assail the order/notice issued by the respondent under Section 6 of the A.P. Land Encroachment Act, 1905 (for short 'the Act'). It is the case of the petitioners that the first petitioner purchased an extent of Acs.2.04 and the second petitioner purchased an extent of Acs.03.07 in S.No.510/1, situated at Kanakamamidi Village, Moinabad Mandal, Ranga Reddy District under a registered sale deed dated 26.2.2005 from one Sri Junjuru Lakshmaiah and three others through their G.P.A. The petitioners also allege that there are rooms connected by the electricity and telephone in the name of M. Shivaraj, who is the G.P.A holder of Lakshmaiah and three others. The respondent issued notice under Section 6 of the Act calling upon the petitioners to show cause as to why they should not be evicted from the unauthorized occupation of the Government land. The petitioners submitted their explanation on 20.7.2005 contending that they purchased the land from the vendors, who are the original owners and that the land is not an assigned land. It is the case of the petitioners that the respondent without holding any further enquiry issued notice under Section 6 of the Act holding the occupation objectionable, and further directed the Mandal

Revenue Inspector to carry out eviction and to take possession of the land.

It is contended by the learned counsel for the petitioners that in view of the law declared by the Supreme Court in **Government of A.P. v. Tummala Krishna Rao**, as there is a genuine dispute regarding title, and the persons in occupation purchased the property under valid sale deeds, the Mandal Revenue Officer cannot resort to summary procedure for eviction under the provisions of the Act. He also placed reliance on the decisions of this Court in **Raidurg Cooperative House Building Society Limited v. Government of A.P.**, **Mahavir Pershad v. Collector, Hyderabad District, Hyderabad** and **R. Jayasimha Reddy v. Government of A.P. and another** and would contend that it is for the State to take appropriate action under the Land Encroachment Act or A.P. Land Grabbing (Prohibition) Act, 1982, or by filing a suit. When there is evidence in support of the petitioners, which was submitted along with the explanation, summary procedure would not have been resorted to. **Per contra**, the learned Assistant Government Pleader (General) submits that after issuing the order/notice under Section 6 of the Act as directed by the Mandal Revenue Officer, possession was taken under panchanama on 9.9.2005. He has placed before this Court a copy of the explanation submitted by the petitioners, as well as the panchanama recorded by Mandal Revenue Inspector, Kanakamamidi Village.

It is no doubt true that the petitioners have placed before this Court the Xerox copies of registered sale deeds executed by their vendors. The panchanama produced by the learned Assistant Government Pleader would show that there were fruit bearing trees and servant quarter on the land. Indeed these would support the view that the petitioners were in possession of the property. However, based on this question whether it is a patta land belonging to Sri Junjuru Lakshmiah, and three others, the vendors of the petitioners, or the Government poramboke land which was encroached upon, cannot be decided. These questions can be decided only based on the revenue record. Having regard to the decisions of this Court referred to hereinabove, it cannot be said that the Mandal Revenue Officer passed the orders without looking into the records. However, in view of the availability of effective alternative remedy to the petitioners by way of appeal to the jurisdictional Revenue Divisional Officer under Section 10 of the Act, all these questions are kept open without expressing any opinion.

Though the learned Assistant Government Pleader produced panchanama, the learned counsel for the petitioners Sri Syed Shareef Ahmed submits that the petitioners are still in possession of the land and that there is electricity and telephone connections, and therefore, he would pray to order status quo to enable the petitioners to enjoy the property. Therefore, so as to enable the petitioners to effectively avail the remedy of appeal under Section 10 of the Act before the Revenue Divisional Officer, it would be in the interest of justice to order status quo as to possession and enjoyment of disputed land. The petitioners are given two weeks time to file appeal before the Revenue Divisional Officer concerned and obtain appropriate orders. As and when the appeal is filed, the Revenue Divisional Officer shall take up the appeal, and pass appropriate orders within a period of six weeks from the date of filing of the appeal.

The Writ Petition, with the above observations, is disposed of at the admission stage.

(V.V.S. RAO, J.)

15th September, 2005

Note: C.C. tomorrow

B/o.

Js.